

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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|-------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | CC Docket No. 90-571 |
| Telecommunications Relay Services |) | |
| And Speech-to-Speech Services for |) | CC Docket No. 98-67 |
| Individuals with Hearing and Speech |) | |
| Disabilities |) | CG Docket No. 03-123 |
| _____) | | |

COMMENTS OF SPRINT CORPORATON

Sprint Corporation ("Sprint"), on behalf of the Telecommunications Relay Services ("TRS") operations of its subsidiary, Sprint Communications Company L.P., hereby respectfully submits its comments on the petition filed by Hands-On Video Relay Service, Inc ("Hands On") seeking reconsideration of the Commission's *Report and Order and Order on Reconsideration*, 19 FCC Rcd 12475 (2004) (*June 30 Report and Order*) issued in the above-captioned dockets. Sprint strongly supports Hands On's petition to the extent that it asks the Commission "to provide full retroactivity to the final 2003-04 VRS [Video Relay Services] compensation rate" (Hands On Petition at 2). As Hands On points out and as set forth below, the Commission's decision in this regard is simply inconsistent with principled decision-making.

In its *Order* issued June 30, 2003 (*2003 Order*) in CC Docket No. 98-67, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 18 FCC Rcd 12823, 12824 (2003), the Bureau "established an interim cost recovery rate [for VRS] of \$7.751 per-minute." The Bureau went on to state unambiguously that this interim rate "will remain in force until we

complete our examination of actual and projected cost data submitted by VRS providers, after which we will produce a final VRS cost recovery rate for the July 1, 2003 through June 30, 2004 TRS fund year.” *Id.* at 12836, ¶37.

In its *June 30 Report and Order*, the Commission completed its examination of the cost data provided by VRS providers, including the data requested by the Bureau after issuance of its *2003 Order*, and set the final VRS recovery rate at \$8.854. Yet despite its unequivocal statement that such rate would apply “for the July 1, 2003 through June 2004 TRS fund year,” the Commission lopped off two months and made the revised rate effective September 1, 2003.

An agency, of course, is free to change its mind as to the wisdom of its previous findings. But it must supply a “reasoned analysis” for doing so. It simply cannot, as the Commission has done here, ignore its previous determinations. *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (1970) (footnote omitted), *cert. denied*, 403 U.S. 923 (1971).

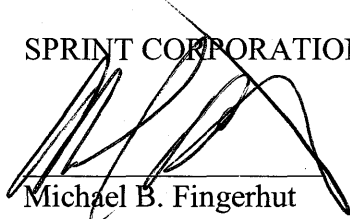
Moreover, the rationale used by the Commission for applying the rate to a 10-month period instead of the full funding year can hardly be considered “reasoned analysis.” The Commission states that the September 1, 2003 was selected because the VRS providers did not submit supplemental data until after the Bureau’s *2003 Order* was issued. *June 30 Report and Order*, 19 FCC Rcd at 12538 (¶166) and 12552 (¶200). What this statement ignores is that VRS providers had no idea that they would be called upon to submit supplemental data to the Bureau until the Bureau’s decision was issued on

June 30. In effect, VRS providers are being penalized for failing to provide information before June 30 that they did not learn they would have to provide until after June 30.¹

In short, and as Hands On states, the Commission's decision to apply what the Commission ultimately found to be the appropriate VRS compensation rate for the 2003-2004 funding year to only 10 months is arbitrary and capricious. On reconsideration, the Commission should reverse its decision, and consistent with the finding in *2003 Order*, apply the revised VRS rate to the full 2003-2004 fund year.

Respectfully submitted,

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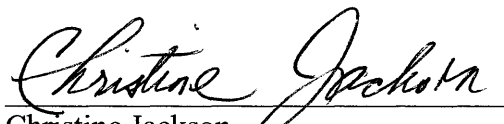
Its Attorneys

November 15, 2004

¹ The Commission does not find that the supplemental data submitted by VRS providers was for the period beginning September 1, 2003.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS OF SPRINT CORPORATION** was filed electronically in all three dockets and sent by United States first-class mail on this the 15th day of November, 2004 to the parties listed on the attached page.


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